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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: Brian Medower
Application No. 10/056,927
Filing Date: 01/24/2002
For: Use of Mother Stamper for Optical Disk
Examiner: Mark Osele
Art Unit: 1791
Attorney Docket No.: M-11628 US

APPELLANTS' REPLY BRIEF

Real Party In Interest

The real party in interest is DPHI Acquisitions, Inc., the present assignee of US Application No. 10/056,927.

Status of Claims

Claims 1 – 11, 13, 15 – 23, 25, and 26 are pending and are more than twice-rejected by the non-final Office Action dated February 11, 2008.

Claims 12, 14, 24, and 27 – 31 are cancelled.

The rejection of claims 1 – 11, 13, 15 – 23, 25, and 26 is appealed.

Grounds of Rejection to Be Reviewed on Appeal

- 1) Whether, under 35 U.S.C. § 103(a), claims 1-4, 6-11, 13, 15-18 are unpatentable over Edwards (2001/0016301) in view of Pan (USP 4,960,680) and further in view of Berg (2001/0036148) and JP3-86943.
- 2) Whether, under 35 U.S.C. § 103(a), claim 5 is unpatentable over Edwards (2001/0016301) in view of Pan (USP 4,960,680) and further in view of Berg (2001/0036148), JP3-86943, and Dobbin (RE 34,506).

Argument

1). The rejection of claims 1-4, 6-11, 13, 15-18 as being unpatentable over Edwards (2001/0016301) in view of Pan (USP 4,960,680) and further in view of Berg (2001/0036148) and JP3-86943

Applicants arguments were summarized in the Examiner's answer "Response to Argument" section with the statement that "Applicants' arguments revolve around the allegation that neither Edwards nor any of the other prior art show that a ROM/RAM disc could be formed just by stamping the ROM and RAM

portions and then covering the stamped substrate with a phase-change material. The Examiner's answer "Response to Argument" section then notes that Edwards discloses that his stamper has grooves and lands. Edwards includes customary boilerplate "broadening" language in his paragraph 52 that ROM type disks could also be manufactured using his process. In response, Applicants readily admit that RAM disks and ROM disks were in the prior art well before the filing of this patent application. Indeed, combination ROM/RAM disks were also known. But note what Edwards absolutely fails to suggest: that one could construct a ROM/RAM combination disk by merely stamping the substrate with both ROM and RAM features and then coating the stamped substrate with a phase-change layer. Indeed, Edwards never addresses the topic of hybrid ROM/RAM disks whatsoever. In an attempt to provide a prima facie showing, the Examiner's answer "Response to Argument" section then notes that Berg teaches that pits and bumps correspond to ROM features whereas lands and grooves correspond to RAM features. Again, Applicants readily admit that such a teaching was abundantly in the prior art. Yet what was entirely missing from the prior art was the concept that one could form a ROM/RAM combination disk as discussed above.

In that regard, consider the usual ROM disk such as the familiar DVDs used by consumers to store video content and widely available at, for example, a "Blockbuster" rental store. Such disks are formed by stamping the substrate with the necessary bumps/pits and then covering the stamped substrate with a reflective information layer such as aluminum. In contrast, the information layer in a RAM disk must absorb light, not reflect it. Thus, prior art RAM/ROM optical disks were awkward affairs in that a manufacturer would have to mask the ROM portion while the RAM information layer was deposited. Similarly, the manufacturer would have to mask the RAM portion while the ROM information layer was deposited. But, by choosing a phase-change layer with the appropriate balance between reflective and absorptive properties, the Applicants provided an optical disk that could be stamped with both ROM and RAM features and then finished by covering both the ROM and RAM disk portions with a single

phase-change information layer. This is the essence of invention yet the Applicants are burdened with the expense of this appeal despite the utter lack of any such teaching in the cited prior art.

2) The rejection of claim 5 as being unpatentable over Edwards (2001/0016301) in view of Pan (USP 4,960,680) and further in view of Berg (2001/0036148), JP3-86943, and Dobbin (RE 34,506

As discussed above, Edwards fails as a base reference: Edwards never addresses the topic of ROM/RAM disks yet Applicants claimed invention is deemed obvious over such a missing teaching. The secondary references do nothing to provide such a missing teaching.

Therefore, in light of the foregoing arguments, Applicants respectfully request the Honorable Board of Appeals to reverse the decision of the Examiner with respect to claims 1 – 11, 13, 15 – 23, 25, and 26.

Respectfully submitted,

Date:

Dec. 29, 2008

By:



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